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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,468	12/16/2003	Francis Ignatius Karwowski USA	839-1504	1467
30024	7590	09/10/2004		EXAMINER
				COHEN, AMY R
			ART UNIT	PAPER NUMBER
				2859

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/707,468	KARWOWSKI ET AL.
	Examiner	Art Unit
	Amy R Cohen	2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 December 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/19/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feeler gages be tapered must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koenig (U.S. Patent No. 2,579,386) in view of Von Tarnik (U. S. Patent No. 2,861,347).

Koenig discloses a measurement gage (Fig. 1) comprising a base (15) having a scale (24) an end of said base for measurement (Fig. 5); a tapered feeler gage element (10) projecting axially from an end; and a slide bar (14) movable along said base and having an indicator (end of 14, 25, Fig. 1) fixed thereto for said scale; wherein movement of said slide bar the axial direction is calibrated to respective thicknesses of said tapered feeler gage element (Col 2, lines 5-19).

Koenig discloses the gage wherein said base is channel shaped in cross section and said slide bar is located within said base (Figs. 1-3).

Koenig discloses the gage comprising a retainer clip (18) at an end of said base for constraining said slide bar to axial movement within said base (Col 1, lines 26-50).

Koenig discloses the gage wherein one of said scales is adapted to measure gaps between 5 and 25 thousandths (Fig. 5 and Col 3, lines 17-25).

Koenig discloses the gage wherein said indicator includes an indicator point (25, Col 2, lines 5-19) and a slot adapted to receive a screw fastener (16, Figs. 1-4), said slot permitting calibration of said indicator relative to a respective scale.

Koenig discloses the gage wherein said base includes a bottom wall and a pair of spaced side walls extending perpendicularly away from said bottom wall (Figs. 2-4); at least one of said side walls having an elongated slot supporting an elongated leaf spring (18), and a set screw (16) threaded into said one of side walls and engageable with said leaf spring (Fig. 3).

Koenig discloses the gage comprising a leaf spring (18) located between said base and said slide bar for creating friction therebetween (Figs. 2-4).

Koenig discloses the gage including a pin (13) projecting perpendicularly out of said slide bar to facilitate movement of said slide bar (Figs. 1-4).

Koenig does not disclose the gage comprising two scales at opposite ends of the base for different ranges of measurement.

Von Tarnik discloses a measurement gage comprising a base (1) having two scales at opposite ends (Figs. 1-3) of said base for different ranges of measurement (Col 3, lines 9-10 and 42-49); a feeler gage element projecting axially from each of said opposite ends (18, 19; 31, 32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the measurement gage of Koenig, to provide two different scales at either end, as taught by Von Tarnik, so that the same gage could be used to two different measurements (as taught by Von Tarnik, Col 1, lines 15-58).

Regarding the claims 5, 10-12: Koenig and Von Tarnik discloses a measurement gage comprising two different scales, wherein one of the scales measures gaps between 5 and 25 thousandths but does not disclose a particular value the second scale, or that the scales be in microns. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the second scale to measure gaps between 25 and 50 thousandths, as to make these micron scales instead of inches scales, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the "optimum range" involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

provide the second, different scale to measure gaps of 25 to 50 thousandths and to make these scales metric, since these are common measurements for gap gages and represent limits thereof.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following application and patents disclose measurement gages Kelly (U. S. PGPUB 2004/0083618), Sheridan (U. S. Patent No. 4,959,014), Stowe et al. (U. S. Patent No. 4,395,827), Skundberg (U. S. Patent No. 3,214,838), Eisele (U. S. Patent No. 2,895,225), Strausser (U. S. Patent No. 2,846,772), Combes (U. S. Patent No. 2,336,393), Smith (U. S. Patent No. 2,330,453), Schaber (U. S. Patent No. 2,175,650), and Pietsch (U. S. Patent No. 919,455).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC
September 6, 2004



Diego Gutierrez
Supervisory Examiner
Tech Center 2800